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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/532,552

04/22/2005

Leigh Richardson

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5756

7590 02/09/2007
Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
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EXAMINER

MERLINO, ALYSON MARIE

ART UNIT

PAPER NUMBER

3676

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/532,552

Applicant(s)

RICHARDSON, LEIGH

Examiner

Alyson M. Merlino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 42-44 is/are allowed.
- 6) ☒ Claim(s) 28,29 and 31-40 is/are rejected.
- 7) ☒ Claim(s) 41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Drawing Attachments 1 and 2.</u> |

DETAILED ACTION

1. The following office action is in response to the amendment filed on January 19, 2007. The examiner acknowledges applicant's cancellation of claims 1-27, and the inclusion of new amended claims 28-44. Claims 28-44 are pending in the application. Claims 28, 29, and 31-40 are rejected as set forth below.

Drawings

2. The original objection to the drawings still stands because in the original drawings filed on April 22, 2005 reference character "26" has been used to designate both a first lug and a second lug in Figure 5, and Figure 12 does not include reference character 56, as discussed on page 14, line 9 of the specification. Corrections to the original drawings filed, specifically Figures 5 and 12, can be found in Drawing Attachments 1 and 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or

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"New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. **Claim 28 is objected** to because of the following informalities: the examiner suggests that the phrase "a secondary bolt mounted with the primary bolt" and the limitations following this phrase should incorporate the limitation that the secondary bolt is "within" the primary bolt.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 28, 29, and 31-40 are rejected** under 35 U.S.C. 102(b) as being anticipated by Pullen (US-5927769). Pullen discloses a latch device having a latch body 10, including a chassis (body portion near reference character 10, Figure 1), a base 100, and a cover 21. Within the body lies a primary bolt 30 coupled to an operating element 22a, 22b, 28 that is moveable from a latching position to a retracted position in relation to a strike 19. When the primary bolt is in the latched position, its engagement portion 56 fits within the strike. The device disclosed by Pullen further includes a retaining means or spring clip 32 that engages an abutment 34 in the primary

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bolt in order to keep it in the retracted position, and an activation means 40, 42 that releases the retaining means. The activation means is a secondary bolt 40 slidingly carried by the primary bolt. The secondary bolt is mounted with the primary bolt within the latch body (Figure 2), and is movable with relative to the primary bolt, as shown in the movement between Figures 2, 3, and 5. Pullen further discloses that the secondary bolt moves independent of the primary bolt, as discussed in the movement of the secondary bolt independent of the primary bolt to release the primary bolt to a latching position (Col. 5, lines 1-13). The secondary bolt disclosed by Pullen has first and second engagement surfaces 42 and (vertical surface of 42 near reference character 44, Figure 4D), respectively, that engage an abutment surface formed by a wall of the strike causing the movement of the retaining means to a release position (Col. 5, lines 1-13). The first engagement surface is inclined (Figures 4A-4D). Pullen further discloses the primary bolt and the retaining means having independently biasing means (spring within primary bolt, Figure 2) and 36, respectively.

6. Pullen also discloses a limiting means 28 that is engaged with the primary bolt in the latching position, and is operable by the operating element to release the bolt from the latching position to the retracted position (Figures 2 and 8). The latch device disclosed by Pullen also includes an indicator means (Figure 9A) that provides a visual indication of whether the primary bolt in the latching or unlatching position (Col. 6, lines 1-13).

Allowable Subject Matter

7. **Claim 30 is objected** to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. **Claim 41 would be allowable** if rewritten to include the limitation regarding the "sliding" movement of the primary bolt in the body of the latch.
9. **Claims 42-44 are allowed** because Pullen does not disclose nor suggest the use of an indicator element in cooperation with one or more cover elements, or the presence of a knob on the distal end of the indicator.

Response to Arguments

10. After further review of the application, the drawings are objected to because the interaction between the primary bolt and the secondary bolt when incorporating the trigger clip for retaining the primary bolt is not clear from the drawings. Specifically, it is unclear from the drawings how the primary bolt is retained by the trigger clip, since it seems from the drawings that the secondary clip is in line with the trigger clip not an engaging portion of the primary bolt. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must

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be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

11. **In regards to the above objection to claim 41**, the claim seems to contain subject limitations pertaining to old cancelled rejected claims 10, 11, and 21, and it also contains allowable subject matter from old cancelled claim 22, however, all the limitations of the device, as disclosed in old cancelled rejected claim 10, such as the "sliding" movement of the primary bolt. The examiner feels that since the allowable subject matter of cancelled claim 22, as well as rejected subject matter of claims 10, 11, and 21, is incorporated into new claim 41, the claim should have all those limitations, as set forth in the denotation of cancelled claim 22 as allowable subject matter, but dependent on a rejected claim. Specifically, the claim would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims, such as the "sliding" movement limitation, since it is apparent that applicant's device cannot function with any other movement of the primary bolt, such as rotating the bolt.

12. **Applicant's arguments filed on January 19, 2007 have been fully considered but they are not persuasive.**

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13. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the secondary bolt's release of the primary bolt when the panel is opened, and the placement of the secondary bolt within the primary bolt) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

14. **Specifically, in regards to applicant's arguments, it was argued in lines 1-5 of the first full paragraph on page 8 of the remarks** that the auxiliary bolt of the latch disclosed by Pullen releases the main bolt when the panel is closed, which, as argued by applicant, is different from the applicant's claimed invention in which the second or auxiliary bolt releases the primary bolt as the panel is opened, however, applicant does not include the limitation that the secondary bolt can only release the primary bolt when the panel is opened within the claims. Therefore, since Pullen discloses that the secondary or auxiliary bolt releases the primary or main bolt when the panel is in the closed position, as discussed in Col. 5, lines 1-13, and applicant does not claim that secondary bolt of applicant's invention can only release the primary bolt when the panel is opened, the limitations regarding the releasing of the primary bolt through the movement of the secondary bolt as claimed are met by the rejection under 35 U.S.C. 102(b).

15. **In regards to applicant's argument in lines 5-11 of the first full paragraph on page 8 of the remarks** that the auxiliary bolt of Pullen is not mounted with the

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main bolt as shown in Figures 1 and 10, the examiner respectfully disagrees. As claimed by the applicant in new claim 28, the "secondary bolt" is "mounted with the primary bolt." This general limitation is met by the latch disclosed by Pullen, shown especially in Figures 1 and 10, since the auxiliary or secondary bolt 42 is mounted with the main or primary bolt 56 in the latch body. Applicant further argued that the position of the auxiliary or secondary bolt to one side and above the main or primary bolt of the latch disclosed by Pullen does not meet the "mounted with" limitation within the claims, however, as argued by applicant, Pullen does not meet the characteristic of applicant's invention that the secondary bolt is "slidingly mounted within the primary bolt," which is detailed in the specification, not the claims. Furthermore, this limitation is met because applicant only claims that the secondary bolt is mounted with the primary bolt, not the preferred embodiment of applicant's invention where the secondary bolt is slidingly mounted within the primary bolt. Moreover, in regards to the objection to claim 28, if applicant wants the device to have the limitation that the secondary bolt is slidingly mounted within the primary bolt, then that limitation language should be found in the independent claim. The inclusion of this limitation in the independent claim would require a subsequent cancellation of claim 30.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyson M. Merlino whose telephone number is (571) 272-2219. The examiner can normally be reached on Monday through Friday, 7:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

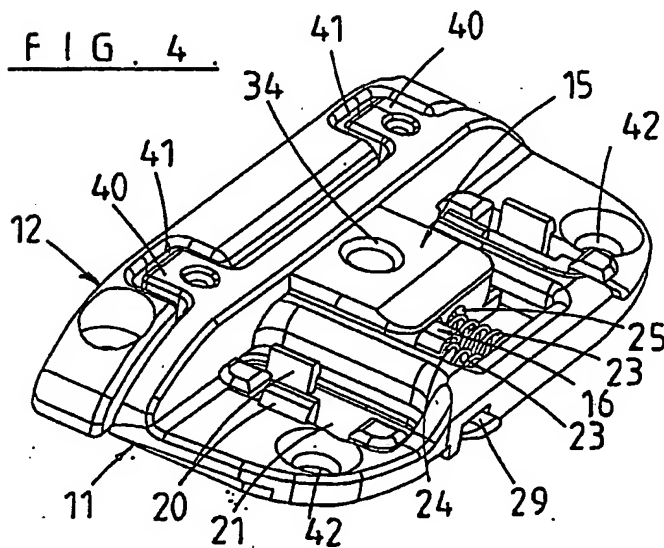
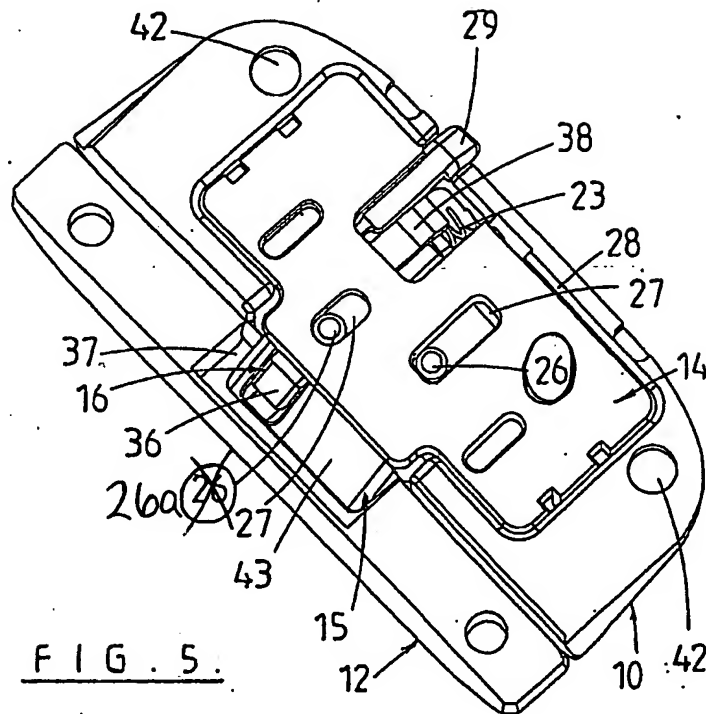
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February 2, 2007

A handwritten signature in black ink, appearing to read "Brian E. Glessner", followed by a long horizontal flourish.

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER

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Drawing Attachment 1

